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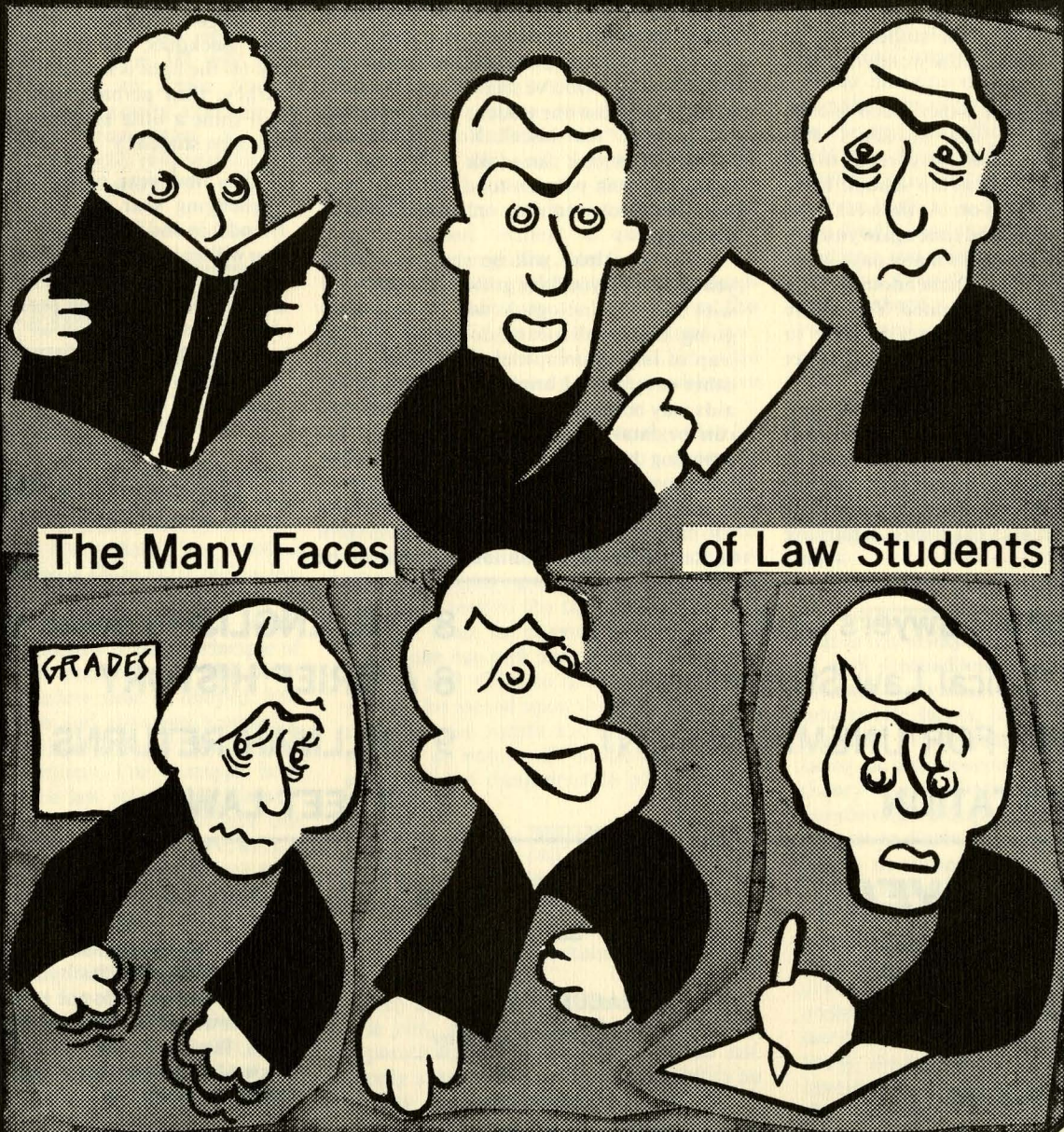
THE

GAVEL

Cleveland-Marshall College of Law

Vol. 32, No. 1

September 1983



The Many Faces

of Law Students

OUR NEW LOOK
...Check it out

WELCOME

by Laura Fallon

Welcome to **Cleveland-Marshall College of Law**. Good Luck on your first year of law school.

Isn't it odd how the phrase "good luck" can strike a sense of fear in our hearts. For some reason we always think, "If they are wishing me luck, then I guess I really need it."

I am quite sure that all you have heard for the past few weeks from friends and relatives, is how difficult law school is going to be for you. Then your loved ones add: "But we know that you will do just fine, you've always been such a good student!" It is always a boost to hear how wonderful you are.

But then your more experienced friends and acquaintances, law students and practicing attorneys, are always ready to tell you what it is really like at law school. Their solemn allocution goes on: As the weeks and months pass by, time and time again you will want to quit. There will be many days when your work will mount tremendously. You will be exhausted and frustrated. You will be convinced that you will never be able to finish your assignments in time for class, let alone understand them."

After such a bleak commentary their voice takes on an urgent, commanding tone: "But don't give up! Don't you owe it to yourself to give it all you've got? I know that you can do it." Then they leave you, confident that they have kindled within your breast a burning drive to succeed.

Well, to be honest, much of what they have said may be true. Many of you will become very discouraged but, please do not give up until you are **SURE** that the study of law is not for you. Each student develops his own technique to get him through the rough times, to help him sit back and realize what a truly fascinating area the law is to study and work with.

First, you must believe that everything will get done, somehow. So don't neglect to give yourself a break from your studies. When you feel like nothing is ever going to get done, and you reason that you might as well throw in the towel right now-- Do it! You can't produce quality work with that kind of attitude. Therefore, give yourself a break, an hour or perhaps all evening, you need and deserve it.

Here is another trick on how to survive and preserve your self-esteem. While you are down at school sitting in the lounge or atrium, observe the second and third year students. After you've seen what is in stock, you must choose one student who appears to **you** to be a "real loser". Now look at the fellow-- if he/she can make it through the first year, then you can too. This technique has been known to spur on many first year students.

Your workload will be very heavy this year and until you have gotten more familiar with the terminology it will be very slow going. But, by all means, do not fall into the trap of relying completely on Casenotes or other commercial briefs. Admittedly, these aids may be helpful in a pinch, but addiction can be fatal. These briefs are famous for stripping the facts down to the bare minimum and have left many an embarrassed student stuttering when a professor questions him too closely. Also, the Casenotes editors seem to have adopted the philosophy that in the

"great scheme of life" it really doesn't matter whether Mr. Smith was the defendant and Mrs. Jones the plaintiff or vice versa. But unfortunately for the addicts, most professors have not adopted such a liberated attitude.

There is one characteristic that is common to all law students--we all spend a lot of time very confused about the subject matter. When you express your concern to a professor they will smile and calmly assure you that it is a good sign, it means that you are learning....Welcome to the world of Bramblebush! But don't worry, if you scratch long enough you are bound to scratch your eyes back in, after you have scratched them out searching for an answer and finding only questions. The pieces will eventually start to fit together, bit by bit. Although most of us are plagued with continuous power failures and blackouts, the light will eventually go on. (If the light is not in your Thanksgiving turkey, then perhaps your Christmas tree will shine a little brighter this year--ask a Goshien student.)

This first year of law school will be a challenging year, full of jokes and tears, friendship and fulfillment. In this short time, you will learn much more than just contracts, property and civil procedure, you will learn a great deal about your personal talents and capabilities.

As you begin your first year, I wish each one of you strength, peace, wisdom, and yes, "good luck"! ■

(Reprinted from **The Gavel**,
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THE GAVEL

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Cover illustration
by **Steven Mills**

National Lawyers Guild

THE DUTY TO DISOBEY

by Mark Miller

This article is the first part of a three-part essay prepared by Cleveland-Marshall student members of the National Lawyers Guild. This first article is in the nature of an introduction. Part II will trace this history of resistance and civil disobedience in America, from early religious dissent and the Boston Tea Party, through Thoreau, the suffragette and labor movements, to the civil rights and anti-war movements. Part III will be a practice-oriented call to action and a survey of the legal theories available as defenses against prosecution of civil disobedients. The special responsibility of lawyers and legal workers will be explored.

FORUM

Part One: Introduction

The law must be obeyed. This axiom seems incontrovertible, true by the very meaning of the words, a tautology. Yet the tradition of civil disobedience has insisted that in certain cases there is no obligation to obey the law, that there may even at times be an affirmative duty to break laws. The fundamental deontic principle of legal systems is expressed in this five-word refrain: the law must be obeyed. Yet in the directness and apparent simplicity of those words there hides a labyrinthine complex of questions. For example, how does one obey the law where there is ambiguity as to what the law is? Where the validity of a law is in doubt? Where, as in a federal system, there are coordinate sets of and it is not clear which law is controlling?

Again, our legal system regards the breaking of laws as procedurally appropriate in certain situations. For example, under prevailing justiciability doctrines, the surest (and in some cases the only) way to challenge an unconstitutional law is to break that law and assert its unconstitutionality as a defense.

The law must be obeyed. The potential monstrosity of positing an absolute duty of humanism of the **Letter from Birmingham Jail** has served as a source of inspiration for subsequent civil disobedients.

The law must be obeyed. The potential monstrosity of positing an absolute duty to obey the law is seen in the Adolf Eichmann trial.⁽¹⁾ In the Nazi context, obedience clearly sheds all majesty. An alternative way to formulate the maxim would be to say that only **valid** laws must be obeyed. Under this view, the positive statutory law is merely **prima facie** law subject to invalidation by some higher law. Few intellectual puzzles are involved where the "higher law" can be ascertained according to some relatively objective method (for example, by checking Supreme Court decision). Least troublesome perhaps is the case of a law that is non-existent or invalid in a technical sense (e.g., passed without a quorum, **ultra vires**, self-abrogating, etc.).

The toughest problems — both conceptually and politically — arise where the "higher law" appealed to is natural law, conscience, the will of the gods, or some other standard susceptible to subjective interpretation or controversy.

During the civil rights campaigns led by Dr. Martin Luther King, Jr., a group of white Alabama clergymen issued a statement which, while acknowledging the justice of the civil rights cause, put forth the view that to countenance civil disobedience is to court anarchy and chaos. Their argument recited the familiar refrain that the law must be obeyed, and contended that if one can pick and choose which laws to obey and which to disobey, then disorder will be loosed upon the world and ultimately those rights and freedoms which we now do enjoy will be destroyed. It is arrogant and dangerous to place oneself above the law.

King's classic response, his "Letter from Birmingham Jail", distinguished just from unjust laws, and declared that the latter must be disobeyed even as the former must be obeyed. According to King, one can with certainty tell the just from the unjust law.

Any law that uplifts human personality is just. Any law that degrades human personality is unjust . . . One has not only a legal but a moral responsibility to obey just laws. Conversely, one has a moral responsibility to disobey unjust laws.⁽²⁾

In the context of the struggle for equality against centuries of racist oppression, King's letter is a ringing affirmation of the humanism of the civil dis-

obedience tradition. Yet, if taken as a general theory of resistance to civil authority, King's letter may overstate the ease and clarity with which just and unjust laws can be distinguished. In a world of multiple and often conflicting values, there will surely be many ambiguous cases. Nevertheless, the humanism of the **Letter from Birmingham Jail** has served as a source of inspiration for subsequent civil disobedients.

FORMS OF CIVIL DISOBEDIENCE

The phrase "civil disobedience", which appeared in the title of Henry David Thoreau's famous essay,⁽³⁾ seems to have encompassed for Thoreau all resistance to civil authority, including the armed rebellion led by the abolitionist John Brown. For Gandhi, on the other hand, the adjective "civil" represented his version of the Hindu doctrine of **ahimsa** (non-violence). Gandhi's doctrine of **satyagraha** centers on the spiritual efficacy of subjecting oneself to unjust suffering. According to Gandhi, non-violent civil disobedience serves both as a spiritual purification of the disobedient through the affirmation of justice, and also as a powerful moral strategy toward enlightening oppressive civil authority. The recent American civil rights and anti-war movements have drawn upon Gandhi's theories, and have tried to use mass media to reach the broadest public conscience.

Civil disobedience raises fundamental questions involving subtle notions of legitimacy, consent to be governed, and so forth.

It is not always easy to locate an action of civil disobedience on the spectrum of violence/nonviolence, for coercion may take subtle forms. It remains nonetheless essential to recognize the unique importance of the coercive dimension in the theory of civil disobedience. The point of paradoxical collapse would be reached whenever disobedience exerted a coercive power as authoritarian or illegitimate as civil government itself.

Historically, resistance to government has emerged in various forms, and in response to a variety of situations. One prevalent early type of disobedience was undertaken in the form of resistance to law-backed infringements of religious liberty. An analogous type of resistance has involved disobedience to laws implicating the individual in actions which would violate his or her conscience. In such cases, the perceived duty to disobey arises not as a tactic to achieve social change **per se**, but as an unwillingness to sacrifice in-

Continued on page 5

The Typical Law Students

by Steven Mills

1. The Anti-Brylcream Look: His hair has never seen a dab of Brylcream, nor has it seen a brush for the last two weeks. Besides, what's more important—nice hair or 700 pages of Constitutional Law, Evidence and Commercial Law?

2. The Wet Look: She has not been able to blow dry her hair for the last two years—no wonder, she's got a 9 o'clock class.

3. The Optometrist's Dream: Ah, yes, these two law students had 20/20 vision going into law school but, alas, they can now barely distinguish their grandmother from their grandfather.

4. The Stare: The stare proves very useful in any class by looking attentive—yet still avoiding a professor's eyes—and we all know how important that is.

5. The Temple Rest: The index finger placed strategically on the temple allows one to look contemplative and interested in the subject—even though bored silly.

6. The Camel Hump: Hunching over a torts book for eleven hours straight contributes to the hump's formation. Unfortunately, this hump will not sustain life for two weeks straight; however, it will provide one with many sleepless nights.

7. The Northern Front: This is better known as the 'first-year bulge'. The 'northern front' expansion will begin immediately after reading 300 pages in Contracts.

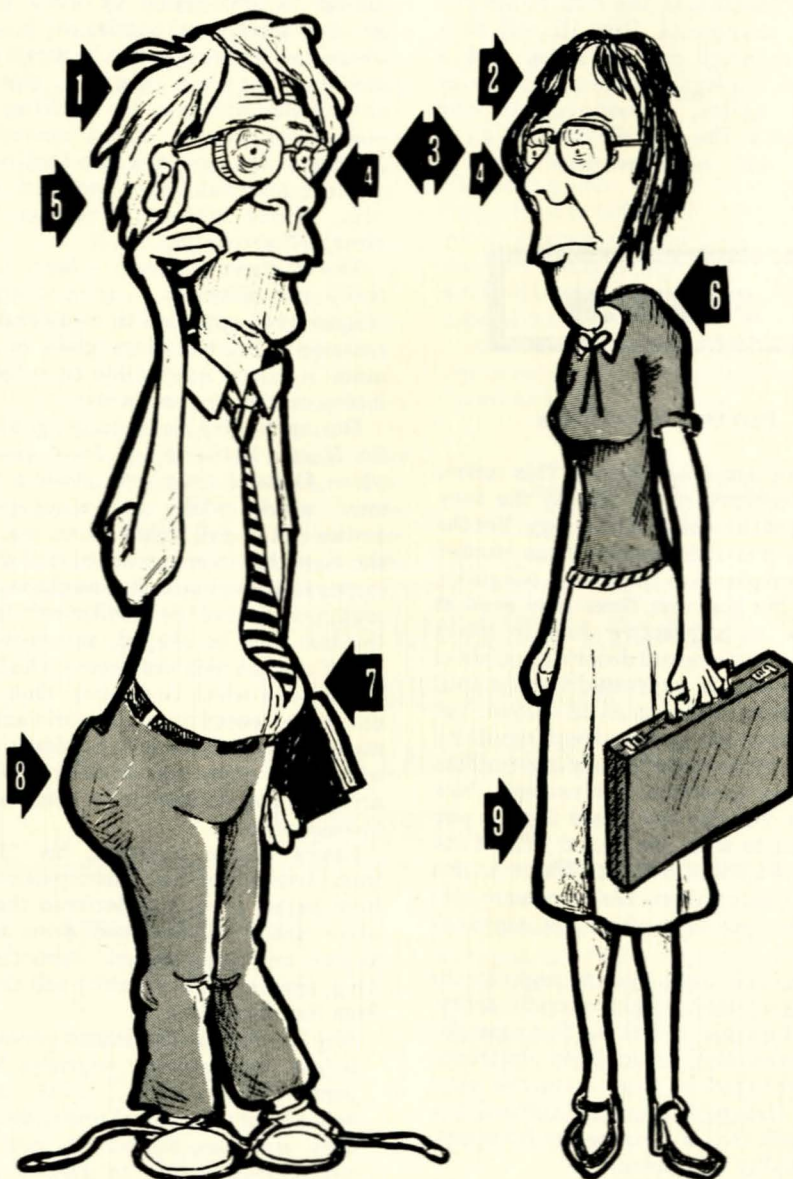
8. The Southern Front: This is also known by a different name, it's called the 'natural cushion'. There is a chemical reaction, still unexplained by man, that happens when one's posterior comes into repeated contact with any law school chair. The technical term for the phenomenon is *rumpus expandis*.

9. The Security Case: Linus, of Peanuts fame, carries a security blanket for comfort; the law student's equivalent to that blanket is the trusty brief case.

WARNING: Dangerous to your health—Never, ever, separate a law student from his or her brief case.

10. The Male Uniform: The uniform includes an open collar, loosened tie, wrinkled pants and untied shoes. Other fashion pieces may be added to the uniform, however, the exclusion of any item will make the uniform incomplete.

11. The Female Uniform: The uniform includes an interview blouse with a tie, below-the-knee length skirt, and a pair of high-heeled shoes. Other fashion pieces may be added to the uniform, however, the exclusion of any item will make the uniform incomplete. ■



THE DUTY TO DISOBEY

Continued from page 3

dividual autonomy to civil authority.

A dichotomy noted by certain commentators on civil disobedience distinguishes between **direct** and **indirect** disobedience. (4) The distinction turns upon whether the disobedience is committed as a protest against the broken law itself, or instead is aimed at some other law or social situation that cannot be confronted directly. For example, protesters against an arbitrary curfew law may choose to violate that law by remaining in the streets during the prohibited hours. Here the targeted law is believed to be itself unjust. Often, however, some evil can be challenged only indirectly. Thus, although there is perhaps nothing inherently unjust about penal statutes outlawing trespass on government facilities, persons seeking some means to resist the development and deployment of nuclear weapons may choose to express their protest through symbolic occupation of missile installations.

The direct/indirect distinction, conceptualized as a continuum, embodies an insight into the need for some nexus between the laws broken and the conditions challenged. Without such a nexus, civil disobedience becomes theoretically and politically more difficult to justify. Thus, a sit-in at the federal post office might lack the requisite connection with, say, a discriminatory city hiring practice. Notions of proportionality suggest other similar limits on civil disobedience. To burn one's draft card in protest against the military burning of human flesh with napalm may embody an obvious connection. Dissatisfaction with an unwise no-parking sign should stop well short of assassination.

Civil disobedience is generically related to dissent and petition for redress of grievances. Although the special feature of civil disobedience is the conscientious breaking of laws, there are echoes of first amendment protection of dissent which may extend to cases of civil disobedience.

Certain kinds of concerted dissident activities, including economic boycotts, may be difficult to classify in a typology of resistance. One peculiar sort of "disobedience" is presented by self-immolation or fasting to the point of death. Despite the existence of statutes criminalizing suicide, the incidental element of law-breaking pales in comparison with the self-sacrifice involved.

Where as the conservative objects that civil disobedience leads to anarchy, the radical may object that non-violent civil disobedience fails, through the passivity of its resistance, to strike at the **status quo** of existing social structures. A controversial point which has been an issue within civil disobedience movements has been whether the civil disobedient must willingly accept his punishment. It is untenable to hold that abolitionists who

"... A portrait not only of the reformer and jurist, but the man as well..." This is how Melvin I. Urofsky, a Virginia Commonwealth University professor who has edited five volumes of Brandeis' letters, describes the recent Brandeis biography written by Lewis J. Paper — **BRANDEIS: An Intimate Biography of One of America's Truly Great Supreme Court Justices.**

ON BOOKS

The Prentice-Hall publication is described as revealing matters that are

defied the Fugitive Slave Act(5) but who had certainly done nothing actually wrong, were obligated to submit willingly to punishment. However, in less extreme cases, it may be reasonable to expect those who deliberately break laws to submit to the statutory penalties.

Civil disobedience raises fundamental questions involving subtle notions of legitimacy, consent to be governed, and so forth. Recognizing that political philosophy provides an approach less satisfactory than can a study of history, the forthcoming second part of this essay will offer an historical overview of civil disobedience in America.

One final postscript note concludes this introductory part. Government tends to be ponderous — to take itself very, very seriously. The spirit of civil disobedience is the spirit of humanism, which is always in danger of suppression. Not the least of the risks facing civil disobedience is that the justice of its ends may engender a self-righteousness reminiscent of the stultifying social structures it opposes.

Quite often, where civil disobedience is practiced, important matters are at stake, matters as serious as human suffering, war and repression. These are not laughing matters. Yet, lest the spirit of humanism be supplanted by the spirit of seriousness (its death knell), disobedients will not be afraid to crack a joke or two to serve as an antidote to the self-righteousness incident to the nobility of their purpose. ■

NOTES

1. See H. Arendt, *Eichmann in Jerusalem: A Report on the Banality of Evil* (1964).
2. Martin Luther King, Jr., Letter from Birmingham Jail, in *Why We Can't Wait* (1963).
3. Thoreau's article, first published under the title "Resistance to Civil Government", in *Aesthetic Papers*, ed. E. Peabody (1849), was

THE BOOKSHELF

"bound to stir controversy: Why Brandeis ignored settled judicial practice and his own earlier opinions to reach a particular result in *Erie v. Tompkins*, ... Why Brandeis once told his law clerk that, in the Supreme Court review of social legislation, the test is, 'Does it make you puke?', ... How Brandeis worked with President Roosevelt, David Ben-Gurion, and others to help Germany's Jews after Hitler came to power ..."

A former clerk to Justice Brandeis, Paul Freund, stated that this biography "has distilled a broad range of sources into a vivid narrative, with the feeling of intimacy and immediacy." ■

presented the previous year as a talk at the Concord Lyceum "On the Relation of the Individual to the State". When it appeared in the collection *Yankee in Canada* (1866), the essay was retitled "On the Duty of Civil Disobedience."

4. See Cohen, *Civil Disobedience and the Law*, 21 Rutgers L. Rev. 1, 4-5 (1966).

5. Fugitive Slave Act of 1850, ch. 60, 9 Stat. 462.

Visiting Scholar Series

Ian T. Macneil, professor at the Northwestern University College of Law, was the first Visiting Scholar of the school year to come to Cleveland-Marshall College of Law. He visited the law school September 22 and 23.

Macneil delivered the 28th Cleveland-Marshall Fund Lecture on September 23 in the Moot Court Room. He presented his lecture on "Bureaucracy, America, and the Legal Profession."

Macneil joined the Northwestern law faculty in 1980. He previously was a professor at the Cornell Law School and a visiting professor at Duke University, University of Virginia, Oxford University, University of Edinburgh and University of East Africa at Dar es Salaam, Tanzania. He received his J.D. from Harvard Law School in 1955. His B.A. is from the University of Vermont. He is the author and co-author of several books, including "The New Social Contract — An Inquiry into Modern Contractual Agreements" in 1980.

Another visiting scholar at Cleveland-Marshall this year will be Harry T. Edwards, judge at the U.S. Court of Appeals for the District of Columbia. Edwards will be visiting C-M on November 1 and 2 and will present his lecture on "The Role of a Judge in Modern Society." ■

CURES FOR UNEMPLOYMENT

by Laura Fallon

Wouldn't it be nice if the job market was thirsty for lawyers, if each one of us could be assured of walking into a job upon graduation! This is the dream of every law student in America, "wouldn't it be nice if . . ." Unfortunately, the economic reality is that it is very difficult to find employment today.

We are all familiar with the law firms' version of the "Dear John letter" — "It was a pleasure to talk with you . . . Your credentials are quite impressive . . ." Then, if they are considerate, they try to console you by giving a short explanation of the hard economic times before finishing the letter with the infamous line: "We wish you continued success in your legal career."

What can we do about this dilemma?

The typical C-M student begins his job hunt by having his/her resume approved by the Placement Office, dutifully following the procedures for signing up to have your resume sent to a firm for consideration. Then, if you are lucky, your name will appear on a list of candidates granted interviews and you sign up for an interview time. Then, after the interview comes the days and weeks of waiting for a response.

This screening and interviewing procedure is efficient and relatively painless. However, the reality is that this procedure will produce, at most, a handful of jobs for C-M students.

What can the rest of us do to find a niche in the "real world"?

The first word of advice is to not be lulled into a false sense of security by the "Placement" Office. The C-M Placement Director, Nancy Goldman, suggests that a better name for the office might be: "Career Planning Office" — for that is what the office is best prepared to do for each C-M student.

"Students have to develop a job search campaign very carefully. We are here to help them."

Ms. Goldman suggests job seekers should send a letter to selected attorneys in the area, to ask for an appointment to talk over with them their field of expertise. This request can be flattering, if it is not abused by a student who takes the opportunity to hand out a resume. Besides offering you insight into the profession, if s/he is impressed by you, you may get a referral to speak with another person in the field. This calls for a second letter,

naming your first interviewer as a reference. Advises Nancy Goldman: "We give you contacts and names, but the hard work has to be done by the student."

The Placement Office has a number of valuable resources available for student use, including: Federal Legal Employment Monthly Report, Federal Yellow Book, Directory of Federal Agencies in Cleveland, Law in Business Directory of Corporate Counsel, and Legal Career Options Book.

Ms. Goldman encourages any students looking for assistance to come in and make their needs known to her or Ms. Pamela Lombardi, her new assistant. She stresses that individual counseling is very important since a job search must be tailored to the individual's particular needs and interests. Ms. Goldman states that she has an "open door policy" and encourages students to drop in and ask questions. The students may also make an appointment with Mary Jo Quartermaine, the Placement Office secretary.

The Placement Office also plans and conducts periodic workshops on various topics, the last two workshops were: Interview Workshop (Sept. 21) and Small Firm Workshop (Sept. 28).


A third workshop is presently being considered to assist students in evaluating employment opportunities. This workshop was borne of the idea that many C-M students are novices in the job market. Many students have gone directly from college into law school and have never been truly initiated into the job market . . . and the prospect is frightening and confusing. We have all been coached in how to make ourselves look attractive to a potential employer, how to answer the "trick" questions in an interview, etc. . . We know what the employer is looking for in an employee. But what should we, the potential employee, be looking for in an employer? How does your first job as an attorney influence the rest of your career development? How should you decide on an area of expertise?

The Placement Office and this reporter would appreciate any input you, the students of C-M Law School, may have concerning such a workshop or any other other possible workshops or seminars.

Please leave any suggestions in the envelope on the door of **The Gavel** office, Room #23. Thank you. ■

BIG BENEFITS FOR LAW STUDENTS

In today's economy, \$8.00 just doesn't go very far . . . unless that money is used to enroll as a member of the ABA — Law Student Division. For that small membership fee, a law student receives subscriptions to both the **Student Lawyer**, which is the award winning publication of the Law Student Division and the **ABA Journal**, the most widely read publication in the legal profession.



ABA

The student also becomes eligible for low cost health insurance, life insurance, renter's insurance, bargain book buys and discount memberships in any of the twenty-nine Sections and Committees which are devoted to particular areas of substantive law. These Sections include areas such as Administrative Law, Family Law, Criminal Justice, Labor Law and Litigation, to name a few.

Third year day and fourth year evening students will be interested in learning that if they join the ABA-LSD this fall, the membership fee will also include a 30%

discount for the upcoming PMBR Multi-state seminars, as well as, upon graduation and passing of the Bar, one year of free membership in the ABA and the Young Lawyer's Division.

Cleveland-Marshall also benefits from your membership in the Law Student Division. Once our law school has 50% of its students enrolled as members, groups such as the Student Bar Association (SBA), Women's Law Caucus and BALSA become eligible for matching grants of up to \$750 for any single law-student-initiated law-school-related project.

The SBA is assisting the ABA-Law Student Division with their annual membership drive and encourage your enrollment as it feels the organization will be an asset to you in both your academic and professional lives. Mike Rae is Cleveland-Marshall's ABA-LSD representative. If you have any questions concerning the membership, see him personally, leave him a note in the SBA office or call him in the SBA office at 687-2339. Applications for membership are available from him, and also on the SBA office door which is located in the basement of the law school, just up the hall from Fran's coffee shop. ■

ORIENTATION 1983

The orientation program for C-M first-year students took place on August 25, 1983. The formal portion of the program lasted from 6:00 to 8:30 p.m. The introductory talk about the "Law School Experience" was given by Professor Lizabeth Moody in the Moot Courtroom which was filled with the first-year class, faculty and staff of C-M.

The Program also included class discussions on assigned cases led by C-M faculty. This was followed by a general information session led by SBA members. A social hour with snacks and refreshments, served in the Atrium, concluded the evening's festivities. Entering students were provided with an opportunity to have their questions answered by faculty, staff, and students. Congratulations to all who contributed their time and effort to make this year's orientation a success. ■



Professor Lizabeth Moody speaks on the "Law School Experience".



First-year students make friends and have queries answered.

THE ENGLISH LEGAL SYSTEM

by Roydell A.J. Lawrence, J.P.
(Visiting Professor)

Our visiting professor is a Magistrate who sits on The Bench, both in the Edmonton Petty Sessional Division and the Crown Court in London.

An American law student who wishes to be called to the English Bar would be subjected to the following regulations:

Education and Training for the Bar

(A) The Academic and Vocational Stages

Training for the Bar comprises two stages —

(1) The Academic Stage

(2) The Vocational Stage

The Academic Stage is completed by —

(1) Taking an approved law degree containing the core subjects.

(2) Taking the diploma in law examination, if eligible to do so.

Note that where a student is partially exempted he or she will be required to take an examination under the diploma in law system at the Polytechnic of Central London in the subjects from which they have not been exempted.

(B) Routes for call to the Bar

There are two routes open to the student who wishes to be called to the Bar:

(1) To obtain a degree in law on a mixed or joint honors degree conferred by a university of polytechnic in England or Wales or by the Council for National Academic Awards which is on the list of approved degrees kept by the Council. To obtain full exemption from the Academic Stage such degrees should contain the six "core subjects" which are the law of contract, the law of tort, criminal law, land law, constitutional and administrative law, and the law of trusts.

(2) To take or complete the Academic Stage under the diploma in law examination. This will be open to certain categories of students, notably law or mixed law graduates of U.K. Universities and Polytechnics, who have obtained partial exemption from the Academic Stage, non-law graduates of U.K. Universities and Polytechnics (i.e. graduates with degrees rather than law or mixed law), mature students and certain other categories of students.

Stage at which a student may join an Inn of Court

When a student has completed the Academic Stage by either of these avenues, he

or she will be eligible to enter the Vocational Stage for the Bar, subject to acceptance by Inn of Court. A student in the above categories may, and in some cases must be admitted to an Inn before taking the diploma in law examinations and an internal student of a university of polytechnic may join an Inn of Court.

GUEST COLUMN

Just before leaving London, the Senate of the Inns of Court, the Bar and the Council of Legal Education announced that all students graduating in and after 1983 and seeking as graduates to sit the Bar Examination in 1984 onward will be accepted only if they have obtained at least a Second Class Honors Degree. The

effect of this regulation will limit the number of students who will be able to take the bar examinations annually. One criticism levelled is that barristers are becoming more and more a privileged class by the limitation imposed on those eligible to qualify for the Bar. It could well be that a similar limitation might be adopted in this country in the future.

Practical Courses

1. Forensic exercises in advocacy. These consist of demonstrations with Judge and Counsel.

2. Chamber exercises — drafting of a wide variety of readings which are usually held under the supervision of and in the chambers of a practicing barrister or in the Royal Courts of Justice. A barrister's office is always referred to as his chambers.

3. Court Attendances. These require a

Continued on page 10

A BRIEF HISTORY

by Lynette Ben

Professor Roydell Lawrence, C-M's visiting professor from England for the 1983-84 school year, presented an enlightening summary of the requirements of becoming a barrister in England, and the history of the English legal system.

UP CLOSE

In order to become a barrister, a person must be in one of the four inns of court which administer the bar. The inns include Lincoln's Inn, Gray's Inn, Middle Temple & Inner Temple. A student must also have a degree obtained from the university, which entitles him or her to take the bar examination.

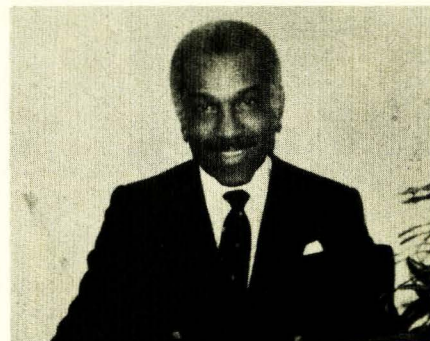
The method of the bar exam in England and the subjects covered vary substantially to those on the Ohio bar exam. The syllabus includes:

(A) Four compulsory papers

(i) General Paper I — Practitioner's

problems in selected areas of tort and criminal law.

(ii) General Paper II — Practitioner's problems in selected areas of the law of trusts and of remedies for breach of contract.



(iii) Procedure (civil and criminal)

(iv) Evidence

(B) Two papers chosen from:

(v) Revenue law (mandatory course to practice law in England)

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KELLMAN RETURNS FROM ENGLAND

by Lynette Ben

After spending an entire year in England and other parts of Europe, Professor Barry Kellman returned to C-M for the 1983-84 school year. Kellman went to England as a part of the exchange program with Poly-Central in London, and found many differences between law school in London and in America.

UP CLOSE

The typical law school setting as we know it does not exist in London. The Socratic method is not used in the classrooms and no hypotheticals are posed. The students are trained solely to **describe** the law — they are not trained to be advocates. According to Kellman, the English's view is that "the law is what it is."

Before attending law school in America, everyone must obtain a bachelor's degree from a college or university. But in England, a student attends law school without first attending college. A law degree in England is still obtained in three years; however, it is the American equivalent of a college major. Because of the minimal amount of schooling, Kellman observed that the law schools in England carry less status than those in the United States, and the students are not as well-educated.

While at Poly-Central, Kellman taught commercial law, an obligatory course for second-year students. Since there is no UCC in England, the course consisted of sales, agency law, and consumer credit. Unfortunately, Kellman was not able to teach any courses in his area of interest, such as energy law, antitrust law or corporation law — the selection of courses

was fairly narrow. Also, the reading is much lighter as a lot less material is covered. He compared the commercial law course to a four-hour course lasting the entire year here at C-M. Their courses may extend over a longer period of time, Kellman said, as their system is not designed to push as far.

Another difference between the system here and in London is the time allowed to study for exams. Sometimes we have as much as an **entire weekend** to prepare for exams. But in London, classes end at the end of April, and exams are held in mid-June. (No system is perfect — although we have barely any study time, we don't have six weeks' worth of worry!!)

In Europe, the American lawyer is "liked and well-respected," according to Kellman. After being in Europe for an entire year, he believes that if a person wants to be a lawyer, nothing compares to becoming an American lawyer. "American lawyers are the best lawyers," says Kellman. American law is more challenging in both the monetary and professional senses. Although ours is a heavily litigious society, Kellman reasons that this is a good thing on balance, as it allows us to move forward at a much faster pace. While only a handful of persons may want to go to Europe and practice law, the number of law students who want to come to America is enormous — perhaps as high as 20-25%.

Although many may not want to go to Europe to practice law, Kellman informed me that there are opportunities for international work or overseas American work. There is an extraordinary demand for lawyers with **special training**. If a European law firm wants an American lawyer, it is probably not as selective as an American law firm would be. Kellman believes that if a student had a well-based career and wanted to go to Europe, it is certainly possible and worth thinking about.

While devoted to the classroom and his work much of the time, Kellman was able to travel extensively throughout Europe during breaks. He visited England, Wales, Scotland, France, Spain, Italy, Holland, Switzerland and Greece. As can be expected, the lifestyles were very different than those in America. Europeans take **special pride** in the city, country and their work — especially the Swiss and Scots. He also thinks that Europeans have a much better sense of history, as they view much longer in the past; however, they arguably do not look far enough into the future, as most Americans do.

Kellman highly recommends both the program and the travel. Surprisingly enough, travelling throughout the European countries was "incredibly cheap." A person is changed by seeing such cities as Venice, Rome, Paris and Zurich. Now that he is back home, he feels he has a better sense of being an American. ■

STREET LAW: STUDENTS AS TEACHERS

by Judith A. Zimmer

Law students outlined their plans for teaching Street Law in area high schools at their first 1983-84 seminar. Second year law student, Bob Flanagan, will introduce the program at John Marshall High School. John Marshall is the tenth Cleveland high school to incorporate the year long course in practical law as a regular course offering.

FORUM

Two students, Mary Haas and Richard Brovarone, will work with classroom teacher Ralph Bowles at Lincoln West High School. The Street Law Program also hopes to work with Mr. Bowles to involve Lincoln West youngsters in volunteer service job placements in law-related jobs during this school year. Marcia Detelbach, jobs coordinator for the Law and Public Service Magnet High School Program, will work with Haas and Brovarone to prepare students for job experiences.

Law student Fred Mooney plans to adapt Street Law's high school materials

so that they can be used by educable mentally retarded youngsters at A.B. Hart Junior High School. He and program director Elisabeth Dreyfuss hope that curriculum developed at A.B. Hart can be used to strengthen the E.M.R. program of the city district.

Second year student Esther Lester will be teaching Street Law at Glenville High School where she has worked before as a Cleveland Public school teacher. Doris Hunt will be teaching Street Law during her lunch hour. She works at the Juvenile Court and will be meeting for forty minutes each day with youngsters who are confined to the Detention Home.

Cleveland Heights and Shaker Heights will be staffed by law students Dan Ticktin and Glenn Chitlik. Both law students attended these suburban high schools.

The Street Law staff plans to work with guidance counselors as well as teachers during this school year to introduce their Street Chemistry materials on alcohol and substance abuse. Law student Roman Mironovich will make the first presentation on October 14 to guidance counselors from across the city district. ■

LEXIS TRAINING

The Law Library is offering Lexis training for all third and fourth year students who have not taken training at this time. One large group lecture will be conducted on Friday October 7th in the Moot Court Room from 6 p.m. until 7 p.m. Please sign up outside Room 135 in the Library.

After the initial lecture, the remaining training sessions will be individual or in small groups generally at the time schedule of the student, as these sessions

involve using video tapes, reading assignments, an off-line Lexis training exercise, and the actual use of Lexis on-line to complete a formal training exercise.

Second year students who have not yet completed their First-year writing requirements for Lexis must participate at this Lexis training period, as it will not be made available for their class at a later time. ■

ENGLISH LEGAL SYSTEM

Continued from page 8

full day's attendance at a variety of courts in London, e.g. the High Court (either Queen's Bench Division or Family Division), the Old Bailey, a Crown Court, a Magistrates Court, County Court and an Industrial Court.

4. Film work. The first session allows the student to see him or herself mastering the basic techniques of advocacy, asking questions, reading from prepared texts, and making a short speech on a chosen topic. The second session deals with more advanced work.

5. Professional Ethics Course. This course is held at the Old Bailey, London's famous criminal court, under the guidance of senior practitioners.

Pupillage

A person who intends to practice at the bar in England or Wales is required either before or after Call, to read as a pupil for a period of not less than 12 months in the chambers of one or more Pupil Masters (experienced barristers). He must have passed revenue law before he is called to the bar; then he serves his pupillage. He can start earning as a qualified barrister when he has succeeded in finding chambers.

Statistics

In 1980 there were 4,589 barristers practicing in England compared with 37,382 solicitors. The number of women in practice was 447.

Inns of Court

Every barrister must be a member of one of the four Inns of Court — which originated around the fourteenth century. They are Lincoln's Inn (the only Inn ever to produce a saint: St. Thomas Moore, a Man for All Seasons), Inner Temple, Middle Temple and Gray's Inn.

The Inns are essentially medieval guilds or colleges of lawyers which continue in full activity at the present day. The Inns have always been responsible for the education of bar students. A barrister's

Inn is his professional home throughout his career. He can lunch and dine with his fellow members in the Inn Hall, use the Inn library, and join in the social life of the Inn. The Inns are extensive buildings which they let in part to barristers as chambers and in part to other tenants, professional, commercial and residential.

Each Inn is governed by Masters of the Bench or "Bencher" consisting of Judges

and Senior Barristers. The Bench itself elects members of the Inn to fill vacancies, and a Bench normally holds office for the rest of his life. The Benchers appoint one of their members to be treasurer, or head of the Inn each year. Each Inn has a permanent administrative staff under a treasurer or sub-treasurer.

Keeping Terms

A student, before he is called, is expected to keep 12 terms in person by Dining in Hall at his Inn during dining terms on three separate days. There are four dining terms of twenty-three days duration in each year. They are as follows: Michaelmas Term — on the first Wednesday in November; Hilary Term — on the third Wednesday in January; Easter Term — on the second Wednesday after Easter Sunday; Trinity Term — on the first Wednesday in July.

Dining is great fun seated with traditional rites, such as toasting the senior mess and the junior mess, sharing the loving cup (mead), and passing the port ingredients, which contribute to a convivial evening. ■

HELP WANTED

You may be able to qualify for tuition reimbursement

* **The Gavel** is looking to increase its staff of reporters.

*Not only would becoming a staff member give you an opportunity to get involved in an exciting law school publication, but it would also qualify you to try for a position as Editor of the newspaper.

*The position of Editor is endowed with a TUITION REBATE for the year that the position is held.

*There will be two (2) Editorial positions available for next school year.

All interested students are encouraged to become involved, **including** first year students. **The Gavel** office is located in room 23, near classroom 12. Stop by, someone is usually in the office. Or put a note in the envelope on the door. We'll get in touch with you.

THE GAVEL

Cleveland-Marshall College of Law
Cleveland State University
Cleveland, Ohio 44115

A BRIEF HISTORY

Continued from page 8

- (vi) Family law
- (vii) Landlord and tenant law
- (viii) Sales of goods and higher purchase
- (ix) Local government and planning
- (x) Practical conveyancing
- (xi) Conflict of laws and European community law
- (xii) Labor law and social security law
- (xiii) Law of international trade

If the student succeeds in the examination, he or she is called to the bar. (The following is a narrative account by Professor Lawrence).

Did you know how called to the bar originated?

The Magna Carta of 1215, Chapter 17 decreed that the common pleas were no longer to follow the King around the country, but were to be held in some fixed place. The fixed place was Westminster Hall.

The DeBanco rose contained proceedings of the Bench, the fixed place ordained for common pleas in 1215. Pleas which

were common did not concern the crown, in that they were not held before the King himself (**coram rege seipso**). Pleas which were not common were heard by **coram rege** (King's Bench).

The Bench was a wooden bar at which counsel stood, and in the center was a large table covered with green cloth at which court officials sat and kept their records, hence law reporting. Against the wall on a raised platform or bench sat the judges — they usually sat in on uneven numbers. There were no seats for counsel until 1700.

The requirement of a fixed place in the Magna Carta was strictly observed. Only in times of plague or flood did the courts leave Westminster Hall, and only after formal adjournment by proclamation.

There is a story which may or may not be true. At that time Sir Orlando Bridgman, then chief justice of common pleas, would not have his court moved back a few feet to avoid the draft from the door because it would have been against the Magna Carta.

There has always been a clear distinction between barristers and solicitors — since medieval times. The distinction is

between the person who stood beside and spoke for another person, known as the **advocatus** or **prolocutor**; as compared with the person who stood in another's shoes and acted on his behalf. He was referred to as the **attornatus** or **procurator**. The separation of pleaders and attorneys was a separation of intellectual and ministerial lawyers, a distinction which has led to this day of barristers and solicitors.

The history of the English legal system seems very fascinating. I told Professor Lawrence after his discussion that it is hard to go into a profession without knowing how it originated. His response was, "That is why I'm here. This is just a taste of how the students who are taking English Legal Systems are benefitting." He also believes that "this course will help them become very good lawyers."

Professor Lawrence also stated that he would be willing to give a lecture on the differences between the American legal profession and the English legal profession (fused profession vs. divided profession). If anyone is interested, I'm sure he would like to hear from you.

From everyone at **The Gavel** and C-M, a very warm welcome to Professor Lawrence! ■

S L E P P O T S E R F O X Y T
M E C O X N U D T S L O D X S
A A A O E T A B A R C E O O U
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T H E S I H C N A R F C R O W

collegiate camouflage

Can you find the hidden legal terms?

ABATE
ACT OF GOD
AGENCY
ARBITRATION
BAILMENT
CAVEAT EMPTOR
CONSIDERATION
DAMAGES
DEED
DURESS
EASEMENT
ESCROW
ESTOPPEL
FELON

FRANCHISE
LIEN
MARTIAL LAW
NOVATION
PATENT
PRIVITY
PROBATE
PROOF
PROXY
REMEDY
SUBPOENA
SUMMONS
TORT
TRUST

Answers on page 12

Fiscal year 1982-1983 decals expired June 30, 1983.

Registration for decals for the coming year will take place in the Parking Department located in the Chester Building. To obtain a decal, you must have a valid University identification card, know your license plate number and pay any outstanding violations.

The Parking Department will maintain operating hours of 8:00 a.m. to 8:00 p.m. Monday and Tuesday; 8:00 a.m. to 6:00 p.m. Wednesday and Thursday; and 8:00 a.m. to 5:00 p.m. on Friday. Hours will be expanded from 8:00 a.m. to 8:00 p.m. during the first two weeks of each quarter.

The University Parking Facility has a parking attendant on duty at the East 21st street exit to give change and answer questions.

Lots K, M, and N may be closed during Fall quarter: notification will be made thru campus newspapers.

The Law Students Civil Rights Research Council, Inc. is seeking to fill regional vacancies on its national board of directors. Representatives are needed for Region IV, which includes Ohio, Indiana, and Michigan.

In general, the board of directors is responsible for setting the policy and approving the programs of LSCRR. Specifically, board members direct regional selections for the national internship program and serve as the national office's liaison for regional activities.

Qualification: First, second or third year law student.

Application Deadline: October 1, 1983. The address is: Law Students Civil Rights Research Council, Inc.; Law Students Council; 132 W. 43rd Street; New York, New York 10036.

National Lawyers Guild Meeting

The Cleveland-Marshall chapter of the National Lawyers Guild will hold its first meeting on Wednesday, September 28, at 4:00 p.m., in the Faculty Lounge. First-year students and other interested law students are particularly welcome. Founded in 1937, the Guild is a national association of progressive lawyers, law students, and legal workers. The September 28 meeting will include presentation of Guild activities in Cleveland, discussion of members' substantive interests, and of course a social hour.

For more information, stop at the Guild office in room 25 (near room 12).

Fulkerson, Shannon in free CSU recital Wed., Oct. 5.

RES PENDES

Violinist Gregory Fulkerson, winner of the 1980 International American Music Competition, will be heard in recital with pianist Robert Shannon at Cleveland State University Wednesday, October 5.

The program will begin at 8 p.m. in CSU's University Hall (the old Samuel Mather mansion), 2605 Euclid Ave. Admission is free and the public is welcome.

On the program are Schumann's Sonata in A minor, op. 105, Bartok's Sonata for Solo Violin, and Ives' Sonata No. 3.

When Fulkerson, a former member of the Cleveland Orchestra, won the 1980 American Music Award, the critic of the Washington Post said, "His tone was warm, his technical command strong, and his joy almost irrepressible as he shared his love of the literature with the audience."

This Washington Star's critic praised him for his "formidable technical skills, a tone as warm and vibrant as one could wish, and an exceptionally keen understanding of contemporary musical idioms," and said he was "in a class by himself" at the competition.

His teachers have included Paul Kling, David Cerone, Robert Mann and Ivan Galamian.

Fulkerson is a member of the Indiana University faculty, Shannon an Oberlin College professor.

Jacob to present American music in piano program at CSU

Pianist Jeffrey Jacob will bring the "Gnomic Variations" that Pulitzer Prize winning composer George Crumb wrote for him to his Sunday, October 2, program at Cleveland State University.

The 8 p.m. concert of 20th century American music will be free, and the public is welcome. Location is CSU's Main Classroom Building Auditorium, East 22nd Street and Euclid Avenue. Free parking will be available.

Jacob won prizes in the Clara Bauer Memorial Piano Competition and the International Piano Recording Competition. He has made concert tours of Britain, Mexico, Canada, the U.S. and mainland China, and has been acclaimed for his performances of contemporary American music. He has recorded the music of Ned Rorem, Samuel Adler and Roger Briggs. Rorem has said of him, "From the standpoint of his programming he is arguably one of today's most important performers."

His teachers have included Mieczyslaw Munz, Carlo Zecchi, Gina Bachauer and Leon Fleisher.

Jacob, who is associate professor at St. Mary's College in Notre Dame, Ind., premiered the Crumb work, which the composer calls his best and most ambitious piano composition, last December at the National Gallery of Art.

The critic of the Washington Times found him "an extroverted, impassioned musician whose technique and intonation are without apparent flaw." The Post's critic said he gave "a finely balanced performance, lucidly bringing out the concentrated poetry of the music. He is a pianist of impressive intelligence and sensitivity."

Besides the variations, Jacob's CSU program will include the Sonata No. 12 by Vincent Persichetti, a Canon and Capriccio by Norman Dello Joio, William Mayer's Piano Fantasy, and Samuel Barber's Piano Sonata.

Activities Planned By The WOMEN'S LAW CAUCUS

Open to all students

How To Outline — How To Study
For Exams — How To Write Exam
Answers

Tuesday, Nov. 1; Room 65.
1:00-2:00

How To Deal With Discrimination In The
Interview Process And The Work World
Panel Discussion
Wednesday, Oct. 5;
Faculty Lounge
5:30-7:00 p.m.

The Women's Law Caucus would like to thank all the participants in the Women To Women Get-Acquainted Program, held on August 21, 1983, for helping to make it such a success!

— Laurie F. Starr

